

DRAFT

REPUBLIEK VAN SUID-AFRIKA

WETSONTWERP OP DIE ONAFHANKLIKE MEDIAKOMMISSIE

(Soos ingedien)

(MINISTER VAN.....)

[W -93 (AS)]

REPUBLIC OF SOUTH AFRICA

THE INDEPENDENT MEDIA COMMISSION BILL

(As introduced)

(MINISTER OF.....)

[B -93 (GA)]

BILL

To provide for the establishment of a Commission to promote freedom of expression in order to create a climate favourable to free and fair elections.

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows: -

1. **Definitions:** - In this Act unless the context otherwise indicates -

"**Authority**" means the Independent Telecommunications Authority established by section.... of the Telecommunications Act.

"**Board**" means the Board of the South African Broadcasting Corporation appointed in terms of sections 4 and 5 of the Broadcasting Act No.73 of 1976;

"**Broadcasting Ombud**" means the person appointed by the in terms of section.... of the Telecommunication Act;

"**broadcasting service**" means a telecommunication service of transmissions consisting of sounds, images, signs or signals which takes place by means of radio and is intended for reception by the general public;

"**Commission**" means the Independent Media Commission established by section 2;

"**CODESA**" means the Convention for a Democratic South Africa;

"**corporation**" means the South African Broadcasting Corporation established by the Broadcasting Act No.73 of 1976.

"**executive**" means the executive of the Authority mentioned in section....of the Telecommunication Act.

"**Electoral Commission**" means the body established in terms of the.....Act, No.....of 1993.

"**Minister**" means the Minister who from time to time is entrusted with the administration of this Act;

"**Telecommunication Act**" means the Act that provides for the regulation of telecommunication and broadcasting activities in South Africa;

"**TEC**" means the Transitional Executive Council established in terms of the Act, No....., of 1993

2. **Establishment of Commission** - There is hereby established a juristic person called the Independent Media Commission and which shall also be known as IMC in English, and OMK in Afrikaans.

3. **Object** - The object of the Commission is to promote freedom of expression in order to create a climate favourable to free and fair elections and to perform such other functions as may be assigned to the Commission by or under this Act or any other law.

4. **Constitution of Commission** - (1) The Commission shall consist of -

(a) a chairperson;

(b) a vice-chairperson; and

(b) not more than five other members,

(2) After nominations from the public to CODESA, the final selection by CODESA of the seven commissioners, including that of the chairperson and vice-chairperson, shall be confirmed by the State President by notice in the Gazette.

(3) If the chairperson is unable to perform his duties in terms of this Act, the vice-chairperson shall act as chairperson of the Commission, and while the vice-chairperson is thus acting, he shall exercise all the powers and perform all the duties and functions of the chairperson.

(4) A member of the Commission shall hold office for a period not exceeding two years.

(5) If a member dies or vacates his office in terms of section 7, the State President may, subject to the provisions of this section and after the approval of the TEC, appoint a person in his place for the unexpired period of his term of office.

5. **Persons qualified to members of the Commission** - (1) In order for a person to be qualified to serve as a member of the Commission that person shall be -

(a) a South African citizen of high standing and merit, who is permanently resident in the Republic of South Africa: Provided that citizens of the Transkei, Bophututswana, Ciskei and Venda shall not be disqualified from appointment to the Commission.

(b) experienced in the field of media, or culture, and have a committment to freedom of expression.

(2) The seven members of the Commission should be representative of the widest possible spectrum of South African society.

6. Persons disqualified from being members of Commission - No person shall be appointed as a member of the Commission -

(a) if he is a person referred to in section 7 of the Public Service Act, 1984 (Act No. 111 of 1984);

(b) if he is a member of Parliament or a local government body as defined in section 1 of the Interim Measures for Local Government Act, 1991 (Act No. 128 of 1991), or referred to in section 15(a) of that Act;

(c) if he is holding office in any political party;

(d) if he has financial or other interest in an industry which is related to broadcasting, telecommunications or the printed media;

(e) if he holds an office in, or is in the employment of a body or organisation having a financial or other interest in an industry referred to in paragraph (d);

(f) if he is an unrehabilitated insolvent;

(g) if he is of unsound mind;

(h) if he has at any time been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention of Corruption Act, 1958 (Act No. 6 of 1958), or any offence involving dishonesty, and has been sentenced therefor to imprisonment without the option of a fine.

7. Vacating of office of Commission - A member of the Commission shall vacate his office -

(a) if he becomes subject to a disqualification referred to in section 6;

(b) if he has been absent for more than three consecutive meetings of the Commission without leave or the chairman, unless the Commission condones his absence on good cause shown;

(c) if he tenders his resignation in writing to the State President; or

(d) if a majority of the members of the TEC discharge that member because he is incompetent to fulfill his duties or if he is guilty of misconduct.

8. Meetings of Commission -

9. Powers and functions of Commission - The powers and functions of the Commission shall be to achieve its objects with the means at its disposal and in order to achieve those objects the Commission shall -

(a) monitor all state-controlled media and information services and public broadcasting services during election periods with the aim of ensuring that the dissemination of news, information and current affairs by these services is fair and impartial and does not prejudice any political party, political organisation or liberation movement;

(b) liaise with the Electoral Commission and the Authority to develop guidelines for all political parties, political organisations and liberation movements to have access to time on broadcasting services

(c) inform both the Electoral Commission and the TEC should the Commission, in the furtherance of its objects, become aware of any matter that may, in the opinion of the Commission, have an adverse impact upon the maintenance of a climate in which free and fair elections can be conducted;

(d) appoint the executive of the Authority, in terms of section..... of Telecommunications Act, after nominations from the public and the holding of selection hearings, in public, in a manner and form which the Commission deems expeditious;

(e) assist with the integration of state-owned broadcasters in Bophututswana, Ciskei, Transkei and Venda into the new dispensation as provided for in the Telecommunications Act, and serve as a mediator in any disputes that may arise in relation to the aforementioned process.

(f) act as the guarantor of the independence of the Board and the Authority by holding inquiries into and publishing findings on any alleged undue political or economic interference with the activities of both the Board and the Authority.

10. Committees of Commission -

11. Staff of Commission -

12. Funds and remuneration of Commission -

13. Pension rights of officers and employees -

14. Rules by Commission -

15. Inquiries by Commission -

16. Independence of Commission and Accounting responsibility -
The Commission shall operate independently from the TEC and any other government or parastatal structure: Provided that from time to time it shall be required to report to the TEC with the regard to the Commission's financial affairs.

17. Limitation of liability -

18. Liquidation -

19. Delegations -

20. Short title - This Act shall be called the Independent Media Commission Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.